

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Bail Appl..No. 6940 of 2007()

(CRIME NO.565/2007 OF VALAPATTANAM POLICE STATION)

PETITIONER/IST ACCUSED:

**E.SAJEENDRAN, S/O.ACHUTHAN, AGED 47
YEARS, ACHUTHA BHAVAN, P.O.THAZHE CHOVVA,
KANNUR - 18.**

BY ADV. SRI.P.U.SHAILAJAN

RESPONDENT: COMPLAINANT:

**STATE OF KERALA, REPRESENTED BY CIRCLE
INSPECTOR OF POLICE, VALAPATTANAM POLICE
STATION, KANNUR DISTRICT,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

KSS

Dated this the 15th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Crime has been registered on the basis of a complaint filed by the defacto complainant before the learned Magistrate and referred by the Magistrate to the police under Section 156(3) Cr.P.C. Crime was initially registered under Sections 376, 406 and 420 r/w 34 I.P.C.

2. The crux of the allegations against the petitioner in the complaint filed by the defacto complainant is that she had contracted an earlier marriage with another person. There was strain in that matrimony. She along with her children were residing separately. She was advised that she must seek astrological assistance. She hence went to the petitioner, an astrologer. He advised her that the house in which she was residing was the cause of all her misery. She disposed of the house. But she developed intimacy with the petitioner, the astrologer. She converted to Hinduism. She entered into matrimony with the petitioner. She had sexual intercourse with the petitioner. She came to realise that the petitioner also had an earlier marriage. She dubs all the sexual intercourse which she had with the petitioner to amount to rape. There is a further allegation that she had disposed of the property and had brought the money with her. Part of it was handed over by her to the petitioner, which is allegedly misappropriated. This, to put it in a nut shell, is the allegation against the petitioner.

3. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

4. The learned counsel for the petitioner submits that the allegations are totally incorrect. They are fanciful, invented and exaggerated. The petitioner and the defacto complainant had taken the decision to live together fully conscious of all the consequences. She is now dragging her feet and making all sorts of false allegations against the petitioner. The petitioner may, in these circumstances, be granted anticipatory bail, it is prayed.

5. The learned Public Prosecutor does not oppose the application. I have requested the learned Public Prosecutor to place the case diary available for my perusal. I have gone through the same. I find the stand taken by the learned Public Prosecutor to be fair and an informed one. In the absence of opposition, it is not necessary for me to advert to facts in any greater detail. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner can be granted anticipatory bail.

6. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 22.11.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only)

with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 23.11.2007 and 24.11.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 22.11.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 22.11.07.

(R.BASANT, JUDGE)

rtr/-

